

April 11, 2013

***Ex Parte***

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

***Re: Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations, MB Docket No. 12-106***

Dear Ms. Dortch:

On April 10, 2013, Craig Parshall, Senior Vice President & General Counsel of the National Religious Broadcasters (NRB), contacted by phone Elizabeth Andron, Acting Chief Counsel and Senior Legal Advisor in the Office of Chairman Julius Genachowski, regarding the status of the Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations proceeding (MB Docket No. 12-106).

Mr. Parshall followed up with the attached email reaffirming NRB's recommendation, in accordance with the *Information Needs of Communities Report* issued by the related FCC working group, that any NCE station that does not receive Corporation for Public Broadcasting grants may qualify to participate in a new rule permitting on-air fundraising for third-party non-profit organizations with up to 1% of the station's annual on-air time. He also summarized basic points from NRB's public comments and reply-comments filed with the Commission on July 23, 2012 and August 21, 2012 respectively that discuss in detail points of interest raised in the Commission's Notice of Proposed Rulemaking in this proceeding.

Pursuant to Section 1.1200, et seq., of the Commission's rules, a copy of this letter is being filed via ECFS with your office.

Respectfully submitted,

*/s/ Aaron Mercer*

Aaron Mercer  
Vice President of Government Relations  
National Religious Broadcasters

**From:** Craig Parshall  
**Sent:** Wednesday, April 10, 2013 5:41 PM  
**To:** Elizabeth Andrion  
**Cc:** Aaron Mercer  
**Subject:** RE: NPRM re: NCE Fundraising for 3rd Party Non-Profits

Elizabeth:

Thank you for allowing me the opportunity to share the essence of our thoughts on the above NPRM, Noncommercial Educational Station Fundraising for Third-Party Non-Profit Organizations, MB Docket No. 12-106:

1. Proposed Rule: NCE, noncommercial stations ("non-coms" or "non-com stations") that do not receive funds from the Corporation for Public Broadcasting (CPB) should be able to interrupt regular programming up to a maximum of one-percent (1%) their annual on-air programming time, in order to raise funds on the air for any *third-party non-profit* organization that has complied with non-profit registration under IRS code section 501 (c)(3) and whose tax exempt non-profit status is in good standing ("TPNPs"), without the necessity of applying for, and receiving an FCC waiver as is required presently. It should be noted that in the FCC working-group-authored *Information Needs of Communities Report* ("INC Report") (1) the efficacy, and advisability of this approach was affirmed and a proposed rule change was recommended, as well as (2) recommending the exclusion of any non-com stations which are recipients of CPB funds (NPR and PBS stations have taken the position that they do not wish to be included in this third-party fundraising opportunity).
2. Comments Filed: Not only has the FCC's INC Report supported this concept, but other filings during the Comment period have likewise been supportive. Only two comments critical of this proposal have been filed; In the Comment from NEC Networks (an Internet radio service), the one cogent point raised was the specter of a non-com station raising funds for its parent organization. However, this risk is alleviated (see 6. below) by the requirement of on-air identification and disclosure of any affiliation between the station and the TPNP. The other Comment, filed by New England Public Radio, questioned whether such fundraising appeals would create the appearance of diversion of NCE stations to an increased fundraising mission and away from their primary on-air mission. However, there is currently no limit on NCE stations spending any amount of time they desire of air time raising funds for their own operations. We know of nothing in the record that would indicate any abuse in the activities of non-com stations raising funds for themselves. Thus, it is logical that the *checks and balances* factor (see 5. below) and the realities of program management and audience satisfaction is a reliable guard against the speculation of possible abuse regarding fundraising for TPNPs.
3. Current Commission Practice: Hitherto, under current rules, non-coms have generally been granted waivers for such on-air fund-raising only regarding mass disasters or international catastrophes.
4. The Advancement of the Public Interest: This proposed change would serve both the "public interest" and community needs, particularly in times of economic distress, and would enable non-com stations to actively partner on the air with non-profit service providers like drug treatment groups, homeless shelters, literacy programs, rescue missions, food pantries for the poor, employment placement services, adoption and foster home facilities, and women's shelters, as well as a myriad of humanitarian aid organizations. Further, as the INC Report suggests, such programs "can be a useful way of information residents about problems in their communities and can help NCE stations achieve their public service ..." (Cited in NPRM, section 7, page 5).
5. Selection of the Third Party Non-Profit Groups: Non-com stations should be able to devote up to one percent (1%) of their annual airtime to raise funds for such TPNPs, and the stations should be the ones to select the TPNP groups in the exercise of their own *good faith judgment*. This is a *de minimus* limit in terms of the quantity of fundraising airtime. Further there is a natural



*checks and balances* that will avoid the potential for abuse of the 1% limit: Non-com stations will be reluctant to frustrate their audiences with excessive fund raising appeals, as such stations rely on donations from their audience to support their own operations.

6. On Air Disclosure: We suggest that at least once per hour of on-air fundraising the non-com station must identify (1) the identity and headquarters of the TPNP group(s) for whom funds are being raised and the identity of the on-air spokesperson for the TPNP; (2) whether any organizational affiliation exists between the non-com station and the TPNP group, and if so, a short description of that affiliation; (3) an identification of any particular activity, event, social need or mission that is being spotlighted during the on-air fundraising.
7. Reporting/ No Undue Administrative Burden: Such non-com stations should not have to "opt-into" such a program. After all, an opt-in would increase, rather than limit, the administrative work of the Bureau, as NCE stations would err on the side of over-opting-in out of an abundance of caution even if they are unsure about whether they will participate. Rather, on an annual basis, on forms supplied by the Media Bureau, such stations actually participating in on-air fundraising for TPNPs should retrospectively report: (1) The dates and number of hours of day (or fractions thereof) when such fund-raising took place; (2) the other information listed in 6. (1) - (3) above; (3) the total number of hours of annual airtime programming aired by the non-com station during that year, to serve as a check on the 1% limit; and (4) if the non-com station participated in tallying or receiving the donated funds on behalf of the TPNP group generated during or as a result of the on-air fundraising, then the non-com station should also report the financial range in which the total funds raised would fall: 0 - \$50,000; \$50,000 - \$100,000; \$100,000 - \$500,000; over \$500,000.
8. Current Waiver Practice Not Affected: We recommend the retention of the current practice of expedited waivers to non-com stations when mass catastrophes or international disasters occur, and the discretion of the Bureau in deciding those. Further, non-com stations participating in this new TPNP fundraising rule should not be penalized from seeking and obtaining such occasional waivers, which would be separate from, and in addition to, their 1% air-time prerogative. After all, when unforeseen, massive disasters occur, the Commission should encourage "all hands on deck" among non-com stations to help meet the needs of those whose lives have been devastated.

Best regards,

Craig Parshall  
Senior Vice-President & General Counsel  
National Religious Broadcasters